

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Alexandria Division**

MEDTRONIC, INC., )  
                        )  
Plaintiff,           )  
                        )  
vs.                   )         Civil Action No. 1:15cv946  
                        )  
MICHELLE LEE,       )  
Under Secretary of Commerce for )  
Intellectual Property and Director )  
of the United States Patent and   )  
Trademark Office,      )  
                        )  
Defendant.           )  
                        )

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**MOTION TO DISMISS**

Pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6), defendant, through her undersigned counsel, hereby respectfully moves to dismiss plaintiff's complaint in the above-captioned action for a lack of subject-matter jurisdiction and Count IV of the complaint for failure to state a claim upon which relief can be granted. The grounds for this relief are fully-explicated in the simultaneously filed memorandum of law in support of the motion.

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Respectfully submitted,

DANA J. BOENTE  
UNITED STATES ATTORNEY

By: \_\_\_\_\_/s/\_\_\_\_\_  
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DATE: September 25, 2015

ATTORNEYS FOR DEFENDANT

OF COUNSEL: Frances Lynch  
Meredith Schoenfeld  
Associate Solicitors  
United States Patent & Trademark Office

**CERTIFICATE OF SERVICE**

I hereby certify that on this date, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will transmit a true and correct copy of the same to the following:

Gregory Hayes Lantier  
Wilmer Cutler Pickering Hale & Dorr LLP (DC)  
1875 Pennsylvania Avenue, N.W.  
Washington, D.C. 20006

Date: September 25, 2015

\_\_\_\_\_/s/\_\_\_\_\_  
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